IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.526 OF 2007
WITH
CHAMBER SUMMONS NO.534 OF 2007
IN
EXECUTION APPLICATION NO.27 OF 2007
IN
SUMMARY SUIT NO.1013 OF 2004

Lalit Sharma. ..Plaintiff.

V/s.

Ashwin Deshraj Monga. ..Defendant.

And

Mr.Ashok D. Monga & Ors. ..Applicants.

Mr.Dhananjay Athawale for applicant/plaintiff.

Mr.S.S.Joshi for defendant.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 16, 2007.

P.C. :

1. Heard counsel for the parties.

2. Although the plaintiff has contested the claim of the applicant, I am inclined to accept the case of the applicant as the same is supported by the documentary evidence, being Exh. ‘B’ and ‘C’. The said documents would indicate that the suit property is family property in which the applicants have independent share mentioned in the documents to the

extent of 1/5th share each. If it is so, the plaintiff can proceed with the execution of the decree only in relation to the remaining portion of the property or shares of the co-owners except the applicants herein, who are admittedly not party to the suit and no decree has been passed against them. The Chamber Summons is made absolute on the above terms. However, it is made clear that in the event the plaintiff is able to produce documentary evidence to counter the claim of the applicants, which is founded on documents Exh.B and C, it will be open to the plaintiff to take out appropriate application supported by appropriate affidavit and documents, which claim can be considered on its own merits in accordance with the law.

3. In view of the above order, counsel for the applicants fairly states that in so far as the Chamber Summons taken out by the defendant being Chamber Summons No.534 of 2007, nothing survives therein, which can be disposed of as not pressed. Accordingly, Chamber Summons No.534 of 2007 is dismissed, as not pressed.